

Applicants: Fahey et al.
Application No.: 09/530,370
Filed: July 6, 2000
Page 2

The proposed division of the claims is based upon the Examiner's description of the proposed groupings as follows:

Group I, claims 1-11 and 40-42, drawn to antibody, first method of use (identification of bacteria), and a kit.

Group II, claims 12-17, 40-42, drawn to second method of use, diagnosis.

Group III, claims 18-39, 43-45, drawn to third method of use, mycothiol level Determination.

(Office Action, page 2). The Examiner supports the restriction requirement by applying Rule 13, which the Examiner interprets as saying that "in addition to an independent claim for a given product (the antibody of the instant case) an applicant is entitled to an independent claim for a use of the said product" (Office Action, pages 2-3). The Examiner then opines that Applicants have presented three methods of use of such a "product."

However, Applicants do not claim a "product", i.e., an antibody. All pending claims are method claims. Hence, Rule 13 would not seem to apply. Moreover, the division of the claims as described by the Examiner appears to be based upon the pre-examination, unsupported conclusion that the only "reagent" that could be used in practice of the invention methods is an antibody. Applicants protest that an Applicant is at least entitled to examination of the application before such a judgment is made by the Examiner.

Applicants: Fahey et al.
Application No.: 09/530,370
Filed: July 6, 2000
Page 3

To clarify the issues involved in the division of claims, Applicants have substituted actual claim language in the "drawn to ..." characterization of subject matter of the various Groups assigned by the Examiner and have included new claims 46-50 in Group I, being dependent upon claim 1. With such substitutions the divisions of the claims imposed by the Examiner would read as follows:

Group I, claims 1-11 and new claims 46-50, drawn to methods for detecting a member of the taxa actinomycetes by contacting a sample with a reagent that detects mycothiol or a mycothiol precursor, and claims 40-42, drawn to kits useful for detecting the presence of mycothiol or precursor thereof in a sample).

Group II, claims 12-17, drawn to methods for diagnosis of a subject having or at risk of having an actinomycetes-associated disorder utilizing a reagent that detects mycothiol or precursor thereof).

Group III claims 18-39, drawn to methods of identifying a sample with altered production of mycothiol, and claims and 43-45, drawn to detecting a mycothiol or precursor utilizing a reagent for fluorescent thiol or amine labeling.

Thus, from the above description of claim content, it can be seen that the Groups I-III methods have in common detection of mycothiol or a precursor thereof using reagents. Therefore, the same art would have to be searched regardless of whether the present restriction requirement is maintained or not. Accordingly, it is respectfully submitted that there would be no serious burden on the Examiner to consider the asserted claims together in a single application. Indeed, a thorough search of any one of these Groups of

Applicants: Fahey et al.
Application No.: 09/530,370
Filed: July 6, 2000
Page 4

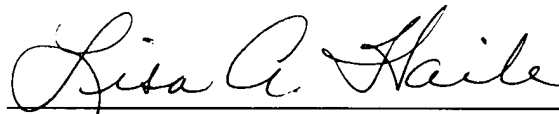
claims would, of necessity, include a search of the other two Groups of claims. Thus, reconsideration and withdrawal of the requirement for are respectfully requested.

In order to be fully responsive, however, Applicants provisionally elect with traverse the Group I claims (i.e., claims 1-11, 40-42, and new claims 46-50). The non-elected claims (i.e., claims 12-39 and 43-45) are retained in this application pending final disposition of the elected claims.

In view of the above remarks, reconsideration and prompt action on all claims is respectfully requested. Should any questions remain in view of this communication, the Examiner is invited to call the undersigned so that a prompt disposition of this application can be achieved.

Respectfully submitted,

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Applicants: Fahey et al.
Application No.: 09/530,370
Filed: July 6, 2000
Exhibit A: Page 1

EXHIBIT A

A marked up copy of the amendments

Please add the following new claims:

- 46. (New) The method of claim 1, wherein the reagent is biotin and biotinylated mycothiol or biotinylated mycothiol precursor is formed in (a); and wherein said detecting in (b) comprises contacting the biotinylated mycothiol or biotinylated mycothiol precursor with a primary antibody that binds thereto to form a complex and detecting the presence of said complex with a detection reagent.
47. (New) The method of claim 46, wherein said detection reagent is selected from an avidinated reagent and a secondary antibody that binds to said primary antibody.
48. (New) The method of claim 47, wherein said detection reagent is directly labeled with a label.
49. (New) The method of claim 48, wherein said label is selected from a fluorophore, a chromophore, a luminophore, a ferritin, a heavy metal and a radioactive label.
50. (New) The method of claim 49, wherein said enzymatic label is selected from horseradish peroxidases, urease, luciferase and alkaline phosphatase. --